

U.S. 349, 356-57 (1978)(citation and footnote omitted). After examining Judge Enos' conduct about which Henderson has complained, the Court finds that Henderson's accusations fail to establish that Judge Enos was not acting in his judicial capacity at all times relevant to this lawsuit or that he was acting in the complete absence of jurisdiction. Accordingly, Judge Enos is entitled to absolute judicial immunity from suit for monetary relief.

Although Henderson has attempted to label Judge Enos' actions as ministerial or administrative and therefore nonjudicial, the Court finds upon consideration of the nature of the challenged actions that they qualify as judicial functions. E.g., id. at 362 (act is judicial if a function normally performed by a judge and parties dealt with judge in his judicial capacity). Thus, Judge Enos' actions fall within the class of acts entitled to immunity.

Furthermore, to the extent Henderson has attempted to hold Judge Enos liable for the acts of others, including court clerks and the district attorney, the Court finds that Judge Enos is entitled to dismissal because "[t]he law is clear that liability under . . . [section] 1983 may not be premised on the doctrine of respondeat superior." Henriksen v. Bentley, 644 F.2d 852, 854 (10th Cir. 1981)(citations omitted).

Accordingly, the Court

(1) ADOPTS the Report and Recommendation issued on November 19, 2007;
(2) DISMISSES all claims as now asserted by Henderson against Judge Enos; and
(3) RE-REFERS this matter to Magistrate Judge Roberts for further proceedings,
including consideration of

(a) Henderson's Motion to Withdraw Exhibit (Exhibit 20—Order of Summary

Deposition) [Doc. 23]¹ filed on December 12, 2007;

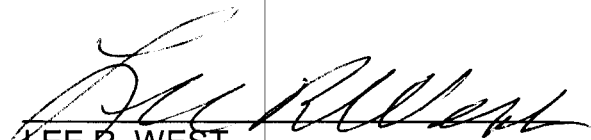
(b) Henderson's Motion to Amend/Clarify Cause of Action [Doc. 23] filed on December 12, 2007;

(c) Henderson's Motion for Leave of Court to Amend Cause of Action of Complaint as to Defendant No. 4, Joe Enos [Doc. 24] filed on December 12, 2007;

(d) Henderson's Motion to Amend [Doc. 25]; and

(e) Henderson's Motion to Amend (Defendant No. 5 George Lindley) and Motion to Correct/Clarify Cause of Action [Doc. 26] filed on December 17, 2007.

ENTERED this 27th day of December, 2007.


LEE R. WEST
UNITED STATES DISTRICT JUDGE

¹Based upon the current record, such motion is arguably moot in light of Judge Enos' dismissal from this lawsuit. Should circumstances change and based upon review of his pending requests to amend, should Henderson be permitted to amend his allegations, a ruling on this particular motion may be necessary.